

DIRECTOR OF CENTRAL INTELLIGENCE  
**Security Committee**

SECOM-D-166

14 June 1985

MEMORANDUM FOR: Chief, Legislation Division/OLL

FROM:

Chairman

SUBJECT: DoD and DoJ Comments on H.R. 271

REFERENCE: OLL 85-1470/1, 12 June 1985

1. The provision of a legislative basis for classification is, in my opinion, highly desirable. It would, presumably, apply to Congress and its employees, resolving an apparent question in the minds of some of whether executive branch classification decisions are binding on the legislative branch. Beyond that, H.R. 271 represents micromanagement of the worst sort, and appears to usurp what has been a presidential function until now. If it cannot be changed to simply establish a legislative mandate for the classification system without the micromanagement aspect, it should be opposed.

2. In general, the DoD proposals are better than H.R. 271 as written. It would be even better if the bill simply dropped most of the exquisite detail it now contains with regard to classification. On the positive side, DoD's recommendation for a subsection 507 (c) should be vigorously supported. Security decisions could be severely hampered by the spectre of endless review and reversal by entities with no responsibility for security.

3. The DoD proposal on Section 509 is important, in that it precludes the use of prior publication as a defense by individuals who are cleared and responsible for the continued protection of classified information that has been partially leaked.

4. There must be a provision for special access programs. The lack of such a provision could result in the dismantling of the SCI security programs which are vital to certain intelligence activities.

5. The DoJ report is negative in tone, distressingly so with regard to Section 509. While Section 509 clearly has defects, Justice's position seems more geared to inaction than to correcting the bill's deficiencies. While I cannot disagree with the DoJ arguments, it would be more encouraging if the report at least reflected the need for legislation that would provide a statutory basis for the classification and security system and that would specifically make the unauthorized disclosure of classified information a crime.

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